

USE AGREEMENT

This USE AGREEMENT is entered into between the UNITED STATES OF AMERICA (hereinafter referred to as the "Government"), acting through the DEPARTMENT OF ENERGY (hereinafter referred to as "DOE"), and Broomfield 400 Partnership (hereinafter referred to as the "Grantor"),

WITNESSETH THAT:

WHEREAS, DOE, through its authorized representatives, agents, contractors, and subcontractors desires to perform, pursuant to Public Laws 95-91, Department of Energy Organization Act, and 96-463, Comprehensive Environmental Response, Compensation and Liability Act of 1980 as amended by 99-499, Superfund Amendments and Reauthorization Act of 1986, certain data-gathering, testing, exploration, and other work on the Grantor's portion of property as shown within Parcel "A" on the map attached hereto as Exhibit A in connection with DOE's Interagency Agreement dated January 22, 1991: and

WHEREAS, the Grantor owns and controls the property designated in Exhibit A;

NOW THEREFORE, it is agreed that:

1. The Grantor owns and controls certain real property (hereinafter referred to as the "Property"), designated in Exhibit A, and hereby grants to DOE, its authorized representatives, agents, contractors, and subcontractors without payment of any land use charge, right of entry in, across, and over the Property to carry out the environmental monitoring activities as described in Exhibit B (the "work"); PROVIDED, that such right of entry is subject to existing easements for public roads and highways, public utilities, railroads and pipelines; PROVIDED FURTHER, that such grant of right of entry reserves to the Grantor, his heirs, executors, administrators, successors and assigns, all right, title, interest and privilege as may be used and enjoyed without interfering with or

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abridging the rights hereby granted to DOE, its authorized representatives, agents, contractors, and subcontractors.

2. The Government shall be responsible for any loss or destruction of, or damage to, the Grantor's real and personal property caused by the activities of DOE in exercising any of the rights hereby granted in this Use Agreement: PROVIDED, that such responsibility shall be limited to restoration of such real and personal property to a condition comparable to its condition on the effective date of the Use Agreement by techniques of back-filing, seeding, sodding, landscaping, repair or replacement, and such other methods as may be agreed to between the parties, subject to the availability of appropriated funds.
3. The provisions of this Use Agreement shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, personal representatives, successors, and assigns of the Grantor. The Grantor shall notify the Realty Officer if the Property is, or at any time during the term of the Agreement should become leased, sold, or otherwise transferred to another party. The "Realty Officer" means the person executing this Use Agreement on behalf of the Government, and any other officer or civilian employee who is properly designated Realty Officer; and the term includes, except as otherwise provided in this Use Agreement, the authorized representative of a Realty Officer acting within the limits of his authority. The Grantor shall also give written notice to any purchaser, lessee, or transferee of the applicability of the rights of the Government contained in this Use Agreement when such purchase, lease, or transfer takes place during the term of this Use Agreement.
4. The effective date of this Use Agreement shall be the date of execution by the Government. The term of this Use Agreement shall commence on the effective date hereof and shall continue for three months unless sooner terminated by the Government or Grantor by sixty-day prior written notice to the other.

5. Title to all personal property brought to the Property by DOE during the term of this Use Agreement shall remain in the Government, and such title shall not be effected by incorporation or attachment thereof to any property not owned by the Government, nor shall such personal property, or any part thereof, become a fixture or lose its identity as personal by reason of affixation to any realty. DOE shall remove all such personal property no later than 30 days after the expiration or termination of the Use Agreement.

The Grantor shall not be liable for any loss of or damage to Government-owned or Government-Furnished property, or for expenses incidental to such loss or damage, except that the Grantor shall be responsible for any such loss or damage (including expenses incidental thereto) which results from the willful misconduct of the Grantor.

6. The Government shall have unlimited rights in all technical data first produced or specifically used in the performance of the work and experiments in connection with this Use Agreement. Further, technical reports from DOE contractors or subcontractors shall be required for delivery to the Government and shall be made available to the public without restriction. For the purposes of this Use Agreement, the terms "technical data" and "unlimited rights" shall have the same meaning as provided in 927.401/Department of Energy Acquisition Regulation (DEAR).

The Government, DOE and/or its agents shall cause to be delivered promptly to Grantor or its agent a copy of all reports, test results, lab analyses and other work product, whether draft or final, generated in connection with the work (as described in Exhibit B).

7. DOE shall obtain all necessary permits or licenses and abide by all applicable Government, state, and local laws, regulations, and ordinances.
8. If the Property is subject to any leases, subleases, or assignments of rights, the Grantor shall obtain the consent of the lessors, lessees, sublessees, and assignees as appropriate, to enter into this Use Agreement. Such consent shall be

Use Agreement No.

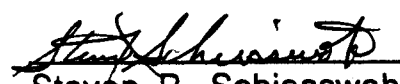
evidenced by their signatures in the space provided on the signature page.


In WITNESS WHEREOF, the parties hereto have executed this Use Agreement in several counterparts.

GRANTOR:
Broomfield 400 Partnership
A Colorado General Partnership

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY

By: Silverado Investment
Company, a Colorado
Corporation, as general
partner
By: 
Robert S. Gilreath
Vice President
707 17th Street, Suite 3000
Denver, CO 80202

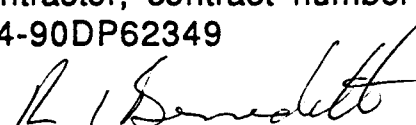
By: 
Steven R. Schiesswohl
RFO Realty Officer
Property & Information
Management Branch

Rocky Flats Office 
P.O. Box 928
Golden, Colorado
80402-0928

Date: 12-30-92

Date: 3/2/93

Concurred by EG&G Rocky Flats, Inc.
DOE Contractor, contract number
DE-AC04-90DP62349

By: 

Title: AGM BLM

Date: 1-8-93

Consented to:

Names

Interest

Signature

Exhibit A: Map

S1/2 of NE 1/4 of Section 32

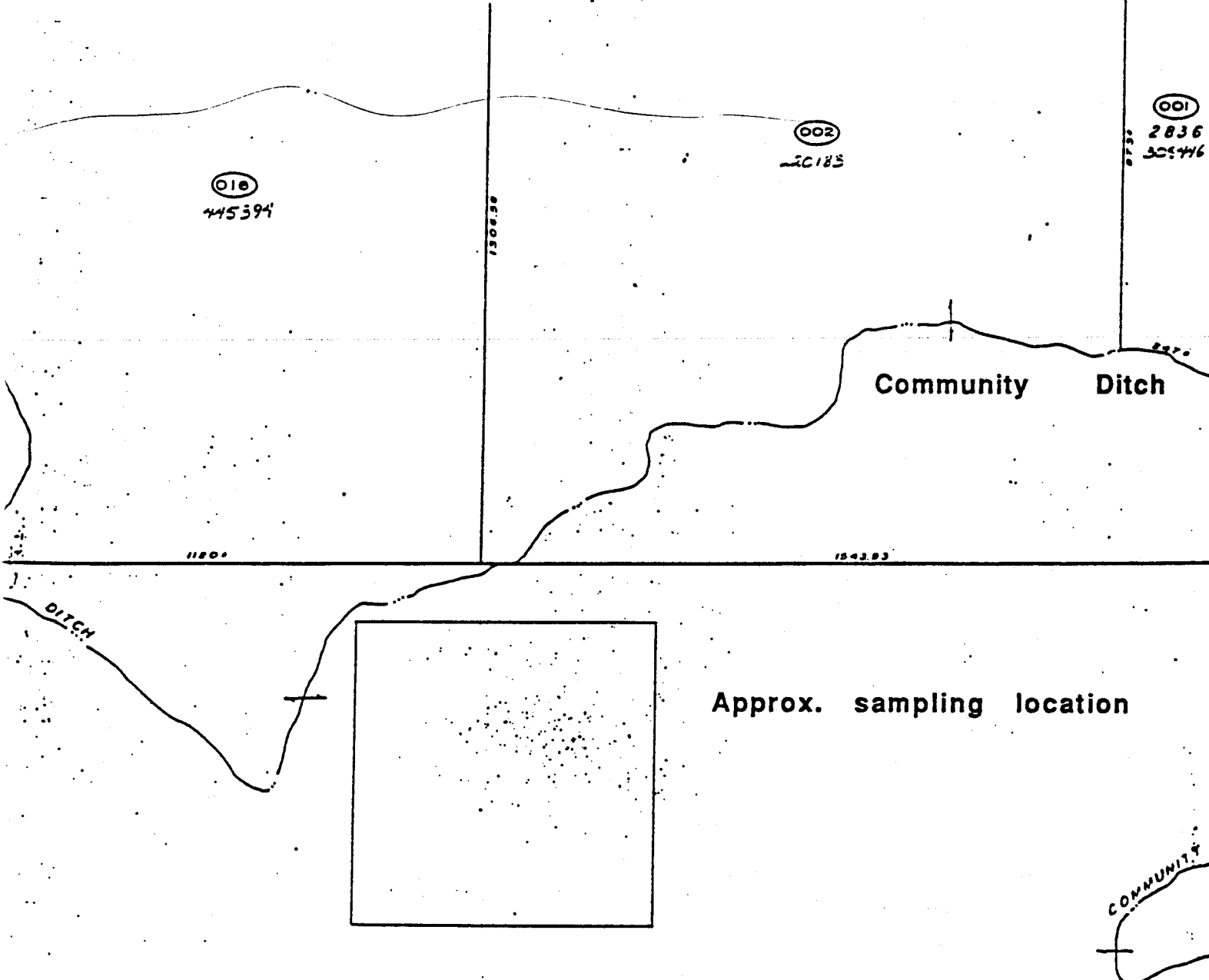
T.1S. R.69W.

Proposed Sampling Location

PT 15792

Owner: Broomfield 400 Partnership

Coalton Drive



Approx. sampling location

Broomfield 400 Partnership
c/o FDIC
707 17TH Street, Suite 3000
Denver, CO 80202-3430

EXHIBIT B

OU3 RFI/RI SAMPLING ACTIVITY BROOMFIELD 400 PARTNERSHIP

The map, attached to this Use Agreement as Exhibit A, shows locations of sampling activities. Sample locations will be surveyed prior to the sampling event. Field adjustments could be made at the time of sampling to adjust specific sampling locations.

~~Sampling activities will not adversely affect environmental resources.~~ OU 3 sampling activities on Broomfield 400 Partnership property are limited to collection of soil data. Specifically, the collection of surface soil samples involves removing one quarter to one half inch of surface soil from a 3 X 3 inch square in 25 locations within a ten acre plot. The ten acre plot locations are shown on the Exhibit A map.

DOE agrees to consult with Grantor regarding the selection of a specific location for the sampling activities.